

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2013-24
Pharmacy Technician,)	
LAURA MANGRICH)	STATEMENT OF CHARGES
Registration No. 19346,)	& NOTICE OF HEARING
Respondent.)	

COMES NOW the Iowa Board of Pharmacy (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2) and 17A.18(3). Respondent was issued Iowa pharmacy technician registration number 17620. Respondent's technician registration is active and will expire on January 31, 2014.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on August 27, 2013, before the Iowa Board of Pharmacy. The hearing shall be held during the afternoon hearing session, beginning at 1:00 p.m. and shall be located in the Board conference room located at 400 S.W. 8th Street, Des Moines, Iowa.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge from the Department of Inspections and Appeals make initial rulings on prehearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 Iowa Administrative Code 35.19. At hearing you will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. The hearing may be open to the public or closed to the public at your discretion.

Prosecution. The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address:

Meghan Gavin
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor Hoover State Office Building
Des Moines, Iowa 50319.

Ms. Gavin may also be reached by phone at (515) 281-6736 or by e-mail at Meghan.Gavin@iowa.gov.

Communications. You may contact the Board office (515) 281-5944 with questions regarding this notice and other matters relating to these disciplinary proceedings. However, you may NOT contact individual members of the Board to discuss these proceedings by phone, letter, facsimile, email, or in person. Board members can only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case. You may also direct questions relating to settlement of these proceedings to Assistance Attorney General Meghan Gavin at (515) 281-6736 or at Meghan.Gavin@iowa.gov.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 155A, and 272C (2011).

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 147, 148C, and 272C (2011) and 657 Iowa Administrative Code chapter 36.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 657 Iowa Administrative Code rule 35.21.

C. CHARGES

Count I VIOLATING LAWS RELATED TO PHARMACY: UNLAWFUL POSSESSION OF DRUGS

Respondent is charged with the unlawful possession of prescription drugs, in violation of Iowa Code sections 124.403(1)(c), 155A.6A(5), and 155A.21(1) and 657 Iowa Administrative Code 36.1(4)(j).

D. FACTUAL CIRCUMSTANCES

1. Respondent is a registered pharmacy technician in the State of Iowa. Her registration is active and will expire on January 31, 2014.
2. A controlled substance inventory was conducted by Towncrest Pharmacy on 12/31/12, and no discrepancies were identified.

3. Respondent was hired as a pharmacy technician by Towncrest Pharmacy in Iowa City, Iowa, on January 14, 2013.
4. On January 29, 2013, 21 tablets of hydromorphone were missing from inventory.
5. On January 30, 2013, a capsule of Adderall XR 30 was found on the employee bathroom sink. This resulted in the pharmacy conducting an emergency Schedule II controlled substance audit, and numerous discrepancies were identified, including shortages of Adderall, Ritalin, amphetamine, hydromorphone, morphine, and oxycodone.
6. On January 31, 2013, Respondent spilled a bottle of alprazolam, the exact count of which could not be verified.
7. On February 1, 2013, Respondent was observed in a medication bay and nearby on the floor were her phone and several tablets of Focalin XR 40. An immediate count of the bottle of Focalin XR 40 showed a shortage.
8. Respondent was terminated from employment on February 1, 2013. No further discrepancies of controlled substances were noted after her termination.
9. An immediate count of all schedule II controlled substances was done again by the pharmacy on February 1, 2013, and additional shortages of hydromorphone, Focalin XR 40, and dextroamphetamine were identified.
10. Respondent refused to be interviewed by the Board of Pharmacy compliance officer and by the Iowa City police department.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 657 Iowa Administrative Code 36.3. If you are interested in pursuing settlement of this matter, please contact Assistant Attorney General Meghan Gavin.

F. PROBABLE CAUSE FINDING

On this 26th day of June, 2013, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



EDWARD L. MAIER, Chairperson
Iowa Board of Pharmacy
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Meghan Gavin
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon Respondent to the above cause by:

personal service first class mail
 certified mail, return receipt requested facsimile
Article Number: 9171999991703104136643 other: _____

on the 27th day of June, 2013.

I declare that the statements above are true to the best of my information, knowledge and belief.



Debbie S. Jorgenson

BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF THE
STATEMENT OF CHARGES AGAINST:

CASE NO. 2013-24
DIA NO. 13PHB046

LAURA MANGRICH
Registration No. 19346

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND ORDER

RESPONDENT

On June 26, 2013 the Iowa Board of Pharmacy (Board) found probable cause to file a Notice of Hearing and Statement of Charges against Laura Mangrich (Respondent) alleging unlawful possession of prescription drugs, including controlled substances, in violation of Iowa Code sections 124.403(1)(c), 155A.6A(5), 155A.21(1) and 657 IAC 36.1(4)(j). The hearing was held on August 27, 2013 at 1:40 p.m. The following members of the Board presided at the hearing: Edward Meier, Chairperson; Susan Frey; Edward McKenna; James Miller; Sharon Meyer; and Judith Trumpy. Assistant Attorney General Laura Cathelyn represented the state. Respondent failed to appear for hearing. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1)(2013) and was recorded by a certified court reporter. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f), to deliberate their decision. The administrative law judge was instructed to prepare the Findings of Fact, Conclusions of Law, Decision and Order, in conformance with the Board's deliberations.

THE RECORD

The record includes the testimony of Board Compliance Officer Curt Gerhold, R.Ph. and State Exhibits 1-4.

FINDINGS OF FACT

1. The Board has issued pharmacy technician registration number 19346 to Respondent, which authorizes her to serve as a pharmacy technician, subject to the laws of the state of Iowa and the rules of the Board. Respondent's pharmacy technician registration will expire on January 31, 2014. (State Exhibits 1, 4)

2. Respondent was hired as a pharmacy technician at Towncrest Pharmacy in Iowa City, Iowa on January 14, 2013. Towncrest Pharmacy had conducted a full controlled substances inventory at the close of business on December 31, 2012 and there were no irregularities.

- On January 29, 2013, one of the staff pharmacists discovered a shortage of 21 tablets of hydromorphone, a schedule II controlled substance, in the pharmacy's perpetual inventory. An investigation was started, beginning with a search for any paperwork deficiencies.
- On January 30, 2013, the store manager found a single capsule of Adderall XR30 on the employee bathroom sink. That evening, the pharmacy completed an immediate count of all schedule II controlled prescriptions.
- The January 30th controlled substance (schedule II) count revealed that the following tablets or capsules were missing from the pharmacy: 10 Adderall XR 10 mg; 31 Adderall XR 30 mg; 13 Ritalin LA 10 mg; 9 Amphetamine IR 30 mg; 14 Amphetamine ER 30 mg; 21 Hydromorphone 4 mg; 7 Morphine ER 15 mg; 25 Morphine ER 60 mg; 1 Morphine ER 100 mg; 4 Morphine ER 200 mg; 18 Oxycodone/APAP 10/325mg.

Towncrest Pharmacy had hired two new employees in the prior two months. The first new employee started in mid-December, and Respondent started on January 14, 2013. On January 31, 2013, Respondent dropped and spilled a bottle of alprazolam (a schedule IV substance) while shelving bottles. The pharmacy was unable to determine if any alprazolam was missing from the bottle. A review of the pharmacy's video surveillance was inconclusive as to the person responsible for the diversion.

On February 1, 2013, Respondent was shelving medications when a pharmacist observed Respondent's phone and several capsules on the floor next to where Respondent was standing. It appeared that these items may have fallen out of Respondent's pocket. Respondent denied any knowledge of why the capsules were on the floor next to her phone. The pharmacist picked up the 8 capsules, which were identified as Focalin XR 40 mg. Focalin XR 40 mg was not stored in the bay where the capsules were found on the floor. An immediate count of the Focalin XR 40 mg bottle revealed that the bottle was short 9 capsules; 8 capsules were found on the floor. Respondent's employment was terminated that same day.

The pharmacy conducted another count of the schedule II controlled substances immediately after Respondent left the premises and additional shortages were identified. In addition to the Focalin XR 40 mg, the pharmacy was also missing 20

Hydromorphone 4 mg, 19 Dextroamphetamine 10 mg, and 17 Dextroamphetamine 15 mg.

On February 4, 2013, a pharmacy technician found a bottle of temazepam 15 mg in the nursing home room where Respondent previously worked. In addition to temazepam, the bottle also contained 17 dextroamphetamine ER 15 mg. The number of dextroamphetamine ER 15 mg capsules found in the temazepam bottle matched the amount of this drug that was missing from the pharmacy's supply. (Testimony of Curt Gerhold, R.Ph.; Exhibit 4)

3. Towncrest Pharmacy notified the Drug Enforcement Agency (DEA), the Iowa City Police, and the Board of the results of their internal investigation. Towncrest Pharmacy conducted another complete Schedule II inventory on February 8, 2013 and no additional discrepancies were identified. The pharmacy conducted another inventory the week prior to the Board's hearing and no discrepancies were found. (Testimony of Curt Gerhold, R.Ph.; Exhibit 4)

4. One of the Board's Compliance Officers attempted to contact Respondent by telephone on two occasions and by knocking at the door of her residence on two occasions, but none of these attempts was successful. Respondent has declined to be interviewed by the Iowa City Police Department. (Testimony of Curt Gerhold, R.Ph.; Exhibit 4)

5. Respondent was served with the Notice of Hearing and Statement of Charges by certified mail, return receipt requested, on July 18, 2013. Respondent failed to appear for hearing. (Exhibit 3)

CONCLUSIONS OF LAW

Iowa Code section 155A.6A(5)(2013) provides, in relevant part, that the board may suspend or revoke the registration of a registered pharmacy technician for any violation of the laws of this state, ... relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of this chapter or chapter 124, 124A, 124B, 126, 147, 205, or 272C or any rule of the board.

Iowa Code section 124.403(1)(c) provides, in relevant part, that it is unlawful for any person to knowingly or intentionally acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.

Iowa Code section 155A.21(2013) provides, in relevant part, that any person found in possession of a drug limited to dispensation by prescription, unless the drug was so lawfully dispensed, commits a serious misdemeanor.

657 IAC 36.1(4) provides, in relevant part:

36.1(4) Grounds for discipline. The board may impose any of the disciplinary sanctions set out in rule 36.1(2) when the board determines that the licensee, registrant, or permittee is guilty of the following acts or offenses:

...

j. Violating a statute or law of this state,...without regard to its designation as either a felony or misdemeanor, which statute or law relates to the practice of pharmacy or the distribution of controlled substances, prescription drugs, or nonprescription drugs.

...

The preponderance of the evidence established that while employed as a pharmacist technician at Towncrest Pharmacy in Iowa City, Respondent unlawfully possessed Schedule II prescription drugs, in violation of Iowa Code sections 124.403, 155A.6A(5), 155A.21(2013) and 657 IAC 36.1(4)(j). The internal investigation conducted by Towncrest Pharmacy provided persuasive evidence that Respondent was responsible for the identified shortages of controlled drugs. Moreover, Respondent has failed to respond to the Board's Notice of Hearing, and she has not denied the allegations made in the Statement of Charges. The nature of Respondent's violation and her failure to appear for hearing justifies the revocation of her registration as a pharmacy technician.

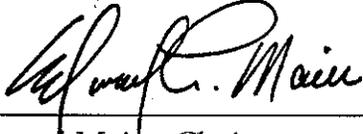
DECISION AND ORDER

IT IS THEREFORE ORDERED that pharmacy technician registration number 19346, issued to Laura Mangrich, is hereby REVOKED. If Respondent seeks reinstatement of her registration, the burden will be placed on her to show that the basis for the revocation no longer exists and that is in the public interest for her registration to be reinstated. 657 IAC 36.13(4).

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 657 IAC 36.18(2), that Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing. In addition, the executive secretary/director of the Board may bill Respondent for any witness fees and expenses or transcript costs associated with this

disciplinary hearing. Respondent shall remit for these expenses within thirty (30) days of receipt of the bill.

Dated this 10th day of ~~September~~ ^{October}, 2013.



Edward Maier, Chairperson
Iowa Board of Pharmacy

cc: Laura Cathelyn, Assistant Attorney General
Hoover State Office Building (LOCAL)

A default decision or decision rendered on the merits after a party has failed to appear or participate in a contested case hearing shall become final board action unless within 15 days after the date of notification or mailing of the decision a motion to vacate is filed and served on all parties or unless an appeal of a decision is timely initiated within the time provided by rule 35.26. A motion to vacate must state all facts relied upon by the moving party which establish good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated shall be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) shall be attached to the motion. 657 IAC 35.21. The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate. 657 IAC 35.21(4).

Any aggrieved or adversely affected party may seek judicial review of this decision and order of the board, pursuant to Iowa Code section 17A.19.